

Chapter 18.790
URBAN FORESTRY PLAN

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18.790.010 Purpose

The purpose of this chapter is to implement the city's urban forestry goals in the comprehensive plan as recommended by the urban forestry master plan by establishing:

- A. Tree canopy cover requirements for new development regardless of the amount of existing trees on site;
- B. Alternatives to meeting tree canopy cover requirements when equivalent environmental functions or values are provided;
- C. Flexible and incentive based requirements to facilitate the planting of large stature trees, and the preservation of existing trees and significant tree groves;
- D. Requirements that ensure successful implementation of urban forestry plans during and after site development; and
- E. A process for modifying urban forestry plans to address changes that occur during the development process. (Ord. 12-09 §1)

18.790.020 Applicability

The requirements of this chapter apply to the following situations:

- A. The following land use reviews:
 - 1. Conditional use (Type III);
 - 2. Downtown design review (Type II and III);
 - 3. Minor land partition (Type II);
 - 4. Planned development (Type III);
 - 5. Sensitive lands review (Type II and III);

6. Site development review (Type II); and
 7. Subdivision (Type II and III).
- B. All Type I modifications to the urban forestry plan component of an approved land use permit as required by Section 18.790.070.
- C. For land use projects limited to an existing right-of-way or easement, the development site shall be considered the existing right-of-way or easement and the urban forestry plan requirements shall be limited to the existing right-of-way or easement. (Ord. 12-09 §1)

18.790.030 Urban Forestry Plan Requirements

- A. Urban forestry plan requirements. An urban forestry plan shall:
1. Be coordinated and approved by a landscape architect (the project landscape architect) or a person that is both a certified arborist and tree risk assessor (the project arborist), except for minor land partitions that can demonstrate compliance with effective tree canopy cover and soil volume requirements by planting street trees in open soil volumes only;
 2. Meet the tree preservation and removal site plan standards in the Urban Forestry Manual;
 3. Meet the tree canopy site plan standards in the Urban Forestry Manual; and
 4. Meet the supplemental report standards in the Urban Forestry Manual.
- B. Tree canopy fee. If the supplemental report demonstrates that the applicable standard percent effective tree canopy cover will not be provided through any combination of tree planting or preservation for the overall development site (excluding streets) or that the 15% effective tree canopy cover will not be provided through any combination of tree planting or preservation for any individual lot or tract in the R-1, R-2, R-3.5, R-4.5 and R-7 districts (when the overall development site meets or exceeds the standard percent effective tree canopy cover), then the applicant shall provide the city a tree canopy fee according to the methodology outlined in the tree canopy fee calculation requirements in the Urban Forestry Manual.
- C. Tree canopy fee use. Tree canopy fees provided to the city shall be deposited into the urban forestry fund and used as approved by council through a resolution. (Ord. 12-09 §1)

18.790.040 Discretionary Urban Forestry Plan Review Option

- A. General provisions. In lieu of providing payment of a tree canopy fee when less than the standard effective tree canopy cover will be provided, an applicant may apply for a discretionary urban forestry plan review. The discretionary urban forestry plan review cannot be used to modify an already approved urban forestry plan, any tree preservation or tree planting requirements established as part of another land use review approval, or any tree preservation or tree planting requirements required by another chapter in this title.
- B. Application procedures. Discretionary urban forestry plan reviews shall be processed through a Type III procedure using approval criteria contained in subsection C of this section. When a discretionary urban forestry plan review is submitted for concurrent Type III land use review with one of the land use review types listed in Section 18.790.020, the review body will be the one designated for the land

use review type listed in Section 18.790.020. If the discretionary urban forestry plan review is not concurrent with any other Type III land use review, then the review body shall be the hearings officer.

- C. Approval criteria. A discretionary urban forestry plan review application will be approved if the review body finds that the applicant has shown that all of the applicable approval criteria are met:
1. The applicant has demonstrated that the proposed plan will equally or better replace the environmental functions and values that would otherwise be provided through payment of a tree canopy fee in lieu of tree planting or preservation. Preference shall be given to projects that will receive certifications by third parties for various combinations of proposed alternatives such as:
 - a. Techniques that minimize hydrological impacts beyond regulatory requirements such as those detailed in Clean Water Services Low Impact Development Approaches (LIDA) Handbook, including, but not limited to, porous pavement, green roofs, infiltration planters/rain gardens, flow through planters, LIDA swales, vegetated filter strips, vegetated swales, extended dry basins and constructed water quality wetlands;
 - b. Techniques that minimize reliance on fossil fuels and production of greenhouse gases beyond regulatory requirements through the use of energy efficient building technologies and onsite energy production technologies; and
 - c. Techniques that preserve and enhance wildlife habitat beyond regulatory requirements, including, but not limited to, the use of native plant species in landscape design, removal of invasive plant species and restoration of native habitat and preservation of habitat through the use of conservation easements or other protective instruments.
- D. Decision. The discretionary urban forestry plan review decision shall be incorporated into the land use review decision types in Section 18.790.020. The discretionary urban forestry plan approved in this section shall supersede and replace any conflicting requirements in this chapter; however, all of the non-conflicting requirements in this chapter shall continue to apply. (Ord. 12-09 §1)

18.790.050 Flexible Standards for Tree Planting and Preservation

- A. General provisions. To assist in the preservation and/or planting of trees and significant tree groves, the director may apply one or more of the following flexible standards as part of the land use review approval. To the extent that the standards in this section conflict with the standards in other sections of this title, the standards in this section shall apply except in cases where the director determines there would be an unreasonable risk to public health, safety, or welfare. Use of the flexible standards shall be requested by the project arborist or landscape architect as part of the land use review process. The flexible standards are only applicable to trees that are eligible for credit towards the effective tree canopy cover of the site.
- B. Approval criterion for use of flexible standards. The review body may consider modifications for lot dimension standards or site-related development standards as part of the urban forestry plan review process. These modifications are done as part of the urban forestry plan review process and are not required to go through the adjustment process. In order to approve these modifications, the review body must find that the modification request is the least required to preserve and/or plant trees, that the modification will result in the preservation of or an addition to tree canopy on the lot, and that the modification will not impede adequate emergency access to the site.

C. Flexible standards to preserve or plant trees. The following flexible standards are available to applicants in order to preserve or plant trees on a development site.

1. Lot size averaging. To preserve existing trees in the development plan for any land partition under Chapter 18.420, lot size may be averaged to allow lots less than the minimum lot size required in the underlying zone as long as the average lot area is not less than that allowed by the underlying zone. No lot area shall be less than 80% of the minimum lot size allowed in the zone.
2. Adjustments to setbacks. The following setback reductions will be allowed for lots preserving existing trees using the criteria in subparagraph a of this paragraph 2.
 - a. Reductions allowed.
 - i. Front yard. Up to a 25% reduction of the dimensional standard for a front yard setback required in the base zone. Setback of garages may not be reduced by this provision.
 - ii. Other setbacks. Up to a 20% reduction of the dimensional standards for other setbacks required in the base zone.
3. Adjustments to sidewalks. Location of a public sidewalk may be flexible in order to preserve existing trees or to plant new large stature street trees. Sidewalk location and design must be approved by the development engineer. For preservation, this flexibility shall be the minimum required to achieve the desired effect. For planting, preference shall be given to retaining the planter strip and separation between the curb and sidewalk wherever practicable. If a preserved tree is to be utilized as a street tree, it must meet the criteria found in the landscaping and screening Section 18.745.040.F.
4. Adjustments to commercial/industrial/civic use parking. For each two percent of effective canopy cover provided by preserved or planted trees incorporated into a development plan for commercial, industrial or civic uses listed in Section 18.765.080, Minimum and Maximum Off-Street Parking Requirements, a one percent reduction in the amount of required parking may be granted. No more than a 20% reduction in the required amount of parking may be granted for any one development.
5. Adjustments to commercial/industrial/civic use landscaping. For each two percent of effective canopy cover provided by preserved trees incorporated into a development plan, a one percent reduction in the minimum landscape requirement may be granted. No more than 20% of the minimum landscape requirement may be reduced for any one development.

D. Flexible standards and incentives for the preservation of significant tree groves. A significant tree grove map is maintained by the director. The following additional flexible standards and incentives are available when a development site contains at least 10,000 square feet of tree canopy that is part of a significant tree grove and is not also within sensitive lands identified in 18.775.010.G.1 through 3. If any of these flexible standards and incentives are requested, the project arborist or landscape architect shall clearly demonstrate in the urban forestry plan consistency with the following provisions:

1. Reduction of minimum density. The minimum density required by 18.510.040.B may be reduced to preserve a significant tree grove. The amount of reduction in minimum density shall be

calculated as described in Chapter 18.715. Reduction of minimum density is permitted provided that:

- a. At least 50% of the significant tree grove's canopy within the development site (and not also within the sensitive lands types in 18.775.010.G.1 through 3) is preserved;
 - b. The project arborist or landscape architect certifies the preservation is such that the connectivity and viability of the remaining significant tree grove is maximized while balancing the significant tree grove preservation considerations in the Urban Forestry Manual; and
 - c. The significant tree grove is protected through an instrument or action subject to approval by the director that demonstrates it will be permanently preserved such as:
 - i. A conservation easement;
 - ii. An open space tract;
 - iii. A deed restriction; or
 - iv. Through dedication and acceptance by the city.
2. Residential density transfer. Up to 100% density transfer is permitted from the preserved portion of a significant tree grove within a development site to the buildable area of the development site.
- a. Density may be transferred provided that:
 - i. The standards in Table 18.790.1 are met with the preservation of the corresponding percent of the significant tree grove's canopy within the development site (and not also within the sensitive lands types in 18.775.010.G.1 through 3);
 - ii. The project arborist or landscape architect certifies the preservation is such that the connectivity and viability of the remaining significant tree grove is maximized while balancing the significant tree grove preservation considerations in the Urban Forestry Manual;
 - iii. Maximum density for the net site area including the significant tree grove is not exceeded; and
 - iv. The significant tree grove is protected through an instrument or action subject to approval by the director that demonstrates it will be permanently preserved such as:
 - (A) A conservation easement,
 - (B) An open space tract,
 - (C) A deed restriction, or
 - (D) Through dedication and acceptance by the city.

- b. The proposed development may include the following:
 - i. Zero lot line single-family detached housing for the portion of the development site that receives the density transfer.
 - ii. The following variations from the base zone development standards are permitted:
 - (A) Up to 25% reduction of average minimum lot width;
 - (B) Up to 10-foot minimum front yard setback;
 - (C) Up to 33% reduction of side and rear yard setbacks;
 - (D) Up to four-foot minimum garage setback; and
 - (E) Up to 20% increase in maximum height as long as height adjustments comply with the International Building Code.
 - iii. When the portion of the development site that receives the density transfer abuts a developed residential district with the same or lower density zoning, the average area of abutting perimeter lots shall at least be 75% or greater than the corresponding minimum lot area of the base residential zoning district.

Table 18.790.1
Density Transfer Table for Preservation of Significant Tree Groves

Residential Zoning District	Detached Sq. Ft. Percent Tree Grove Canopy Preserved /Min. Lot or Unit Area	Attached Sq. Ft. Percent Tree Grove Canopy Preserved/Min. Lot or Unit Area	Duplex Percent Tree Grove Canopy Preserved/Min. Lot or Unit Area	Multifamily Percent Tree Grove Canopy Preserved/Min. Unit Area
R-1 (30,000 sq. ft. per unit)	25-49%/22,500 sq. ft. 50-74%/15,000 sq. ft. 75-100%/7,500 sq. ft.	Not Allowed	Not Allowed	Not Allowed
R-2 (20,000 sq. ft. per unit)	25-49%/15,000 sq. ft. 50-74%/10,000 sq. ft. 75-100%/5,000 sq. ft.	Permitted with 75% or greater tree grove canopy preservation/5,000 sq. ft.	Not Allowed	Not Allowed
R-3.5 (10,000 sq. ft. per unit)	25-49%/7,500 sq. ft. 50-74%/5,000 sq. ft. 75-100%/2,500 sq. ft.	Permitted with 75% or greater tree grove canopy preservation /2,500 sq. ft.	Permitted with 75% or greater tree grove canopy preservation /5,000 sq. ft.	Not Allowed
R-4.5 (7,500 sq. ft. per unit)	25-49%/5,625 sq. ft. 50-74%/3,750 sq. ft. 75-100%/1,875 sq. ft.	Permitted with 75% or greater tree grove canopy preservation /1,875 sq. ft.	Permitted with 75% or greater tree grove canopy preservation /3,750 sq. ft.	Not Allowed
R-7 (5,000 sq. ft. per unit)	25-49%/3,750 sq. ft. 50-74%/2,500 sq. ft. 75-100%/1,250 sq. ft.	Permitted with 75% or greater tree grove canopy preservation /1,250 sq. ft.	Permitted with 75% or greater tree grove canopy preservation /2,500 sq. ft.	Not Allowed
R-12 (3,050 sq. ft. per unit)	Single-family, duplex and multifamily housing permitted at the following densities: 25-49% tree grove canopy preservation/2,288 sq. ft. per unit 50-74% tree grove canopy preservation/1,525 sq. ft. per unit 75-100% tree grove canopy preservation/763 sq. ft. per unit			
R-25 (1,480 sq. ft. per unit)	Single-family, duplex and multifamily housing permitted at the following densities: 25-49% tree grove canopy preservation/1,110 sq. ft. per unit 50-74% tree grove canopy preservation/740 sq. ft. per unit 75-100% tree grove canopy preservation/370 sq. ft. per unit			
R-40 (None)	Single-family, duplex and multifamily housing permitted with no upper density limit.			

3. Adjustments to commercial development standards. Adjustments to commercial development standards (Table 18.520.2) of up to 50% reduction in minimum setbacks and up to 20 feet additional building height are permitted provided:
 - a. At least 50% of a significant tree grove's canopy within a development site (and not also within the sensitive lands types in 18.775.010.G.1 through 3) is preserved;
 - b. The project arborist or landscape architect certifies the preservation is such that the connectivity and viability of the remaining significant tree grove is maximized while balancing the significant tree grove preservation considerations in the Urban Forestry Manual;

- c. Applicable buffering and screening standards in Section 18.745.050 are met;
 - d. Any height adjustments comply with the International Building Code;
 - e. Maximum floor area ratio is not exceeded in the MUE zoning district as described in 18.520.050.C.1;
 - f. Any setback reduction is not adjacent to residential zoning; and
 - g. The significant tree grove is protected through an instrument or action subject to approval by the director that demonstrates it will be permanently preserved such as:
 - i. A conservation easement,
 - ii. An open space tract,
 - iii. A deed restriction, or
 - iv. Through dedication and acceptance by the city.
4. Adjustments to industrial development standards. Adjustments to development standards in industrial zones (Table 18.530.2) of up to 50% reduction in minimum setbacks and up to 20 feet additional building height are permitted provided:
- a. At least 50% of a significant tree grove's canopy within a development site (and not also within the sensitive lands types in 18.775.010.G.1 through 3) is preserved;
 - b. The project arborist or landscape architect certifies the preservation is such that the connectivity and viability of the remaining significant tree grove is maximized while balancing the significant tree grove preservation considerations in the Urban Forestry Manual;
 - c. Applicable buffering and screening standards in Section 18.745.050 are met;
 - d. Any height adjustments comply with the International Building Code;
 - e. Any setback reduction is not adjacent to residential zoning; and
 - f. The significant tree grove is protected through an instrument or action subject to approval by the director that demonstrates it will be permanently preserved such as:
 - i. A conservation easement,
 - ii. An open space tract,
 - iii. A deed restriction, or
 - iv. Through dedication and acceptance by the city.

5. Adjustment to minimum effective tree canopy cover requirement. The requirement for 15% effective tree canopy cover per lot or tract in the R-1, R-2, R-3.5, R-4.5 and R-7 districts is not required when:
 - a. At least 50% of a significant tree grove's canopy within a development site (and not also within the sensitive lands types in 18.775.010.G.1 through 3) is preserved;
 - b. The project arborist or landscape architect certifies the preservation is such that the connectivity and viability of the remaining significant tree grove is maximized while balancing the significant tree grove preservation considerations in the Urban Forestry Manual;
 - c. The applicable standard percent effective tree canopy cover in Section 10, part 3, item N of the Urban Forestry Manual will be provided for the overall development site (excluding streets);
 - d. The significant tree grove is protected through an instrument or action subject to approval by the director that demonstrates it will be permanently preserved such as:
 - i. A conservation easement,
 - ii. An open space tract,
 - iii. A deed restriction, or
 - iv. Through dedication and acceptance by the city.
6. Adjustment to street and utility standards. If requested, the director shall use his or her discretion when considering adjustments to Chapter 18.810, Street and Utility Improvement Standards and Section 18.745.040, Street Tree Standards, provided:
 - a. The adjustments will facilitate preservation and help to maximize the connectivity and viability of a significant tree grove while balancing the significant tree grove preservation considerations in the Urban Forestry Manual;
 - b. The significant tree grove is protected through an instrument or action subject to approval by the director that demonstrates it will be permanently preserved such as:
 - i. A conservation easement,
 - ii. An open space tract,
 - iii. A deed restriction, or
 - iv. Through dedication and acceptance by the city. (Ord. 12-09 §1)

18.790.060 Urban Forestry Plan Implementation

- A. General provisions. An urban forestry plan shall be in effect from the point of land use approval until the director determines all applicable urban forestry plan conditions of approval and code

requirements have been met. For subdivisions and partitions, the urban forestry plan shall remain in effect for each resulting lot or tract separately until the director determines all applicable urban forestry plan conditions of approval and code requirements have been met. Prior and subsequent permitting decisions regarding the planting, maintenance, removal and replacement of trees when not associated with one of the land use review types in 18.790.020.A shall be administered through Title 8 (Urban Forestry) of the Tigard Municipal Code.

- B. Inspections. Implementation of the urban forestry plan shall be inspected, documented and reported by the project arborist or landscape architect whenever an urban forestry plan is in effect. In addition, no person may refuse entry or access to the director for the purpose of monitoring the urban forestry plan on any site with an effective urban forestry plan. The inspection requirements in the Urban Forestry Manual shall apply to sites with an effective urban forestry plan.
- C. Tree establishment. The establishment of all trees shown to be planted in the tree canopy site plan (per 18.790.030.A.3) and supplemental report (per 18.790.030.A.4) of a previously approved urban forestry plan shall be guaranteed and required according to the tree establishment requirements in the Urban Forestry Manual.
- D. Urban forest inventory. Spatial and species specific data shall be collected according to the urban forestry inventory requirements in the Urban Forestry Manual for each open grown tree and area of stand grown trees in the tree canopy site plan (per 18.790.030.A.3) and supplemental report (per 18.790.030.A.4) of a previously approved urban forestry plan. (Ord. 12-09 §1)

18.790.070 Modification to the Urban Forestry Plan Component of an Approved Land Use Permit

- A. General provisions. Except as exempted in subsection B of this section, any modification to the urban forestry plan component of an approved land use permit shall be processed as a Type I land use decision as described below.
- B. Exemptions. The following activities shall be exempt from the Type I modification to the urban forestry plan component of an approved land use permit process:
 - 1. Removal of any tree shown as preserved in the tree canopy site plan (per 18.790.030.A.3) and supplemental report (per 18.790.030.A.4) of a previously approved urban forestry plan provided:
 - a. The project arborist or landscape architect provides a written report prior to removal attesting that either the condition rating or suitability of preservation rating (per the supplemental report requirements in the Urban Forestry Manual) of the tree has changed to a rating of less than two; and
 - b. A revised tree canopy site plan and supplemental report are submitted for review and approval prior to removal that reflect the proposed changes to the previously approved urban forestry plan. The revised tree canopy site plan and supplemental report shall demonstrate how the effective tree canopy cover requirements will be provided by tree planting, preservation and/or payment of a tree canopy fee in lieu of planting or preservation.
 - 2. Modification of the quantity, location or species of trees to be planted in the tree canopy site plan and supplemental report of a previously approved urban forestry plan provided:

- a. The modification results in the same or greater amount of future tree canopy through tree planting as the previously approved urban forestry plan for the lot or tract where the modification is proposed;
 - b. Payment of a tree canopy fee in lieu of planting is not proposed as part of the modification; and
 - c. A revised tree canopy site plan and supplemental report are submitted for review and approval prior to planting that reflect the proposed changes to the previously approved urban forestry plan.
 3. Modification of the tree protection fencing location in the tree preservation and removal site plan (per 18.790.030.A.2), tree canopy site plan and supplemental report of a previously approved urban forestry plan provided:
 - a. The project arborist or landscape architect provides a written report prior to modification of the tree protection fencing describing how the proposed modification will continue to protect the viability of the trees shown as preserved in the previously approved urban forestry plan; and
 - b. A revised tree preservation and removal site plan, tree canopy site plan and supplemental report are submitted for review and approval prior to modification of the tree protection fencing that reflect the proposed modifications to the previously approved urban forestry plan.
 4. Modification of any other site elements that do not require any modification of the tree protection fencing location or trees to be planted or preserved in the tree preservation and removal site plan, tree canopy site plan and supplemental report of a previously approved urban forestry plan; and
 5. Maintenance of any trees in accordance with tree care industry standards.
- C. Application procedures. Modifications to the urban forestry plan component of an approved land use permit that are not exempted by subsection B of this section shall be processed as a Type I procedure, using approval criteria contained in subsection D of this section.
- D. Approval criteria. The director shall approve the modification to the urban forestry plan component of an approved land use permit upon determining:
1. The project arborist or landscape architect has provided a report and statement certifying that the previously approved urban forestry plan did not account for the circumstances that lead to the proposed modification;
 2. The project arborist or landscape architect has provided a report and statement certifying that there is no practicable alternative to the proposed modification; and
 3. The project arborist or landscape architect demonstrates through a revised urban forestry plan, compliance with Section 18.790.030. (Ord. 12-09 §1) ■